

Putlands were independent contractors, they sought relief in that capacity by way of contract variations for harsh or unfair terms under s 16(1)(b) of the *Independent Contractors Act 2006* (Cth).

The Court (Bromwich J) ultimately found that the Putlands were employees of Royans Wagga (at [16] and [258]-[281]). Bromwich J summarised the established principles from the case law on the characterisation of employment contracts and independent contractors (at [17]-[31]). By reference to the leading authorities, his Honour discussed the prominent factor of the degree of control which a person who engages another to perform work has and the “modernisation that produced the shift from actual control to the right to exercise it” (at [24]).

Applying the factors telling for and against the Putlands being in an employment contract relationship or independent contractors, the Court found “in the end by a comfortable margin” that they performed the accident reporting service works as employees. Bromwich J said at [279]: “The weight of the indicia established by the evidence, dominated by the finding of Royans Wagga’s authority to control, favours finding an employment relationship rather than an independent contractor relationship, notwithstanding certain lesser features that are in common or more telling of the latter. The reality is that the impact of technology, and in particular communications technology, has greatly facilitated working from home where the substance of work is no different from that which was done in the workplace in the past. However, quite apart from the arrangements in the Hut which strongly tell of an employment relationship, the key features, even for the weekend and after hours work from home, are the undoubted control that Royans Wagga, through Mr Andrews, had the authority to exercise and did exercise from time to time, and the fact that the work was only done for Royans Wagga. Any sense in which the applicants were entrepreneurs and running their own business was illusory and, in any event, a matter of form rather than substance. They were not truly performing work as entrepreneurs owning and operating a separate business. They were not truly working in and for their own business and as representatives of that business but, rather, were performing work as representatives of Royans Wagga”.

The Court then addressed the alleged breaches of the *Fair Work Act 2009* contingent on finding an employment relationship (at [282]-[336]).

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CROSSWORDS ANSWERS

ACROSS 1. Lien 5. Circa 8. Abeyance 10. Fact 11. Dock 12. Tin 14. Sue 15. Firm 16. Ow 17. Dupe 18. She 19. Seat 20. Seizure 23. Abraham Lincoln 26. Aid 27. Upon 28. Narks 29. Eluded 31. Offense 35. Erroneous 37. Table DOWN 1. Life 2. Native 3. Debts 4. BA 6. Roo 7. Askew 9. Confession 11. Dim 12. Testimony 13. Julia Gillard 16. Oar 19. Statute 21. URL 24. Consent 25. PS 30. Doe 32. Sob 33. Mug 34. Hex 36. Oz 38. AM